



**Program Letter**

Division of Environmental and Regulatory Services  
May 1998

**Temporary-Out-of-Service UST Systems  
ILHR 10.73**

**Does an owner of an UST system have to request permission to place it in a Temporary-Out-of-Service (TOS) status?**

No. The owner must, however, revise the UST Inventory form (ERS 7437) and send the notification to Madison. The UST system will not be considered to be in code compliance until the proper paper and database documentation is complete. The owner must apply to the Department through the appropriate Commerce or LPO agent inspector for an extension beyond the twelve month period.

**If an inspector discovers an UST system that was taken out of service without notification, via the ERS 7437 form, and the owner wishes to place the tank system in TOS status, what date is used to begin the TOS status?**

The day after the date the owner/operator can provide evidence of product being dispensed from the tank. If dispenser meter records, inventory records, or leak detection records showing product transfer can not be provided, the system will be assumed to already have gone past the twelve month limit and will not be able to be placed in TOS status.

**What sections of the Inventory Form must be completed?**

- ◆ Site identification (owner, address, telephone numbers, etc.)
- ◆ Tank age and capacity
- ◆ Land owner and occupancy information
- ◆ Leak detection information if UST will contain product
- ◆ Tank contents
- ◆ Owner name and signature
- ◆ Tank System or Regulated Object Number (Wang or New Reg Obj. number)

**How long can a tank system be in TOS status?**

An UST system that has functional (operating) corrosion protection (CP) can be placed in TOS indefinitely. At any point in time when the CP is not functional, the UST must be closed. An UST system that does not have functional corrosion protection can be placed in TOS status for twelve months.

**What can an owner do to get more time in TOS status?**

Submit a written request for any time period longer than the initial twelve months to the responsible tank program inspector. Non retail sites must contact the LPO agent inspector, retail sites must contact the Commerce Bureau of Retail Petroleum Services inspector. The request must include justification, specific time frames for bringing the tank into compliance (closure), and a completed ERS-7437 inventory form. The extension request must be complimented with a site assessment (ILHR 10.73(4)). The inspector will forward the site assessment to the Commerce hydrogeologist for review. After consultation with a Department hydrogeologist, the inspector will make the determination and forward the

documentation to the permit and registration unit. *Extensions will only be granted for USTs that will be closed.*

**How will inspectors treat tank systems in TOS status?**

Inspectors will continue to place TOS tanks on their inspection schedule. Inspectors will verify if the TOS status complies with section ILHR 10.73 of the administrative code. Inspectors will be expected to verify if the tank has been emptied of product or if the leak detection system and monitoring is being maintained. Inspectors will be expected to monitor the TOS time expirations and write orders for closure if the UST system is not closed at the end of the time period.

If the entire facility is closed, the inspector should be able to make some observations that will lend to logical assumptions and next step regulatory processes. It will be the owner's responsibility to prove that the system is in compliance (e.g. maintaining leak detection monitoring).

**If an inspector discovers that a tank has been placed in TOS status, but the owner has not submitted the revised UST Inventory form, how much time will the inspector give the owner to comply?**

The inspector needs to identify what is taking place. If the owner is discontinuing use of the UST with no intention to upgrade within twelve months, the inspector will be expected to issue orders for immediate emptying and closure of the tank system. If an owner is intending to upgrade, or sell the property within twelve months to someone who may upgrade, the inspector will write orders for an immediate emptying of the tank (or maintenance of leak detection) and completion of the ERS 7437 UST Inventory form, placing the tank in TOS Status.

**If an UST is placed in TOS status to complete the EPA upgrade requirements, what is required prior to placing the upgraded system back into service?**

This is dependent upon the situation. As a response in general:

- The tank can not be placed in service until the LPO inspector responsible for the installation inspection has completed a final pre-operation inspection.
- Both the tank and piping must have a current tightness test.
- All paperwork must be submitted to Madison.

**If an UST system is undergoing an upgrade on December 22, 1998 to meet the technical upgrade requirements, must the owner place the UST in TOS status?**

If a tank system is in the active process of being upgraded and the upgrade will be completed within 30 days (by January 22, 1999) the owner does not have to formally submit TOS status on the ERS 7437. All conditions of the previous question must be met.

**NOTE: This statement only applies to the system being upgraded. An owner can not start upgrading one system and use this concept to upgrade a series of systems in sequence. Any system not in full compliance with upgrade requirements on December 22, 1998 must not be in operation.**

**Will the Department allow a tank system in TOS status to be upgraded and placed back in service?**

The Department will allow a TOS UST system that does not have functional corrosion protection to be *upgraded* and placed back in service if the system can be placed back in service *within* the twelve month time period.

A UST system *with functional corrosion protection* may be placed back in service at any time after upgrading, provided the operator can demonstrate that the corrosion protection has been operating during the TOS period and the system passes the startup tests.

**Can a system that has orders for closure be placed in TOS status to nullify the orders or remove the system from the non-compliance status of the order?**

No.

**Is ILHR 10.731 - Seldom Used Tanks, an option to closure or TOS status?**

No. A "seldom used tank" must meet the Dec. 22, 1998 upgrade requirements.

**Can an owner place an UST system in TOS status to "buy" time in closing the tank?**

That is not the intent of allowing TOS, however, that is probably the reason the owner is placing the tank in TOS status. The code does not require that the owner justify the reason for TOS status.

**ILHR 10.73(1) addresses temporary closure and states "... operators shall continue operation and maintenance of corrosion protection ..." Does this mean that a tank must have cathodic protection (CP) prior to being allowed TOS status?**

No, but if the system has CP, it must be maintained. CP, however, must be in place to allow TOS status beyond the twelve months (ILHR 10.73(4)).

**What are the CP maintenance requirements if the owner places a system with CP in indefinite TOS status?**

The CP system must be maintained in operation and inspection requirements must be met. Lined tanks must have the internal inspection maintained within the prescribed time period. Impressed current systems must continue to have power applied and rectifier record keeping maintained. If the impressed current system is not maintained, the tank becomes an unprotected bare steel tank.